

§ 15.74

§ 15.74 Procedure in the event of an adverse ruling.

If the court or other authority declines to stay the effect of the demand in response to a request made in accordance with § 15.73(b) pending receipt of instructions from the Secretary, or if the court or other authority rules that the demand must be complied with irrespective of the instructions from the Secretary not to produce the material or disclose the information sought, the employee upon whom the demand has been made shall respectfully decline to comply with the demand (*United States ex rel. Toughy v. Ragen*, 340 U.S. 462).

[52 FR 12161, Apr. 15, 1987]

Subpart I—Testimony of Employees of the Department in Legal Proceedings

SOURCE: 52 FR 12161, Apr. 15, 1987, unless otherwise noted.

§ 15.81 Purpose.

(a) This subpart prescribes the policies and procedures of the Department with respect to testimony of its employees as witnesses in legal proceedings with respect to material contained in the files of the Department or information learned as part of the performance of their official duties or because of their official status.

(b) For purposes of this subpart, the term *employee of the Department* includes current and former officers and employees of the United States appointed by or subject to the supervision of the Secretary, but does not include officers and employees covered by part 2004 of this title.

[52 FR 12161, Apr. 15, 1987, as amended at 60 FR 58457, Nov. 27, 1995]

§ 15.82 Testimony in proceedings in which the United States is a party.

(a) In any legal proceeding in which the United States is a party, an employee of the Department may not be called to testify as an expert or opinion witness by any party other than the United States, but may be called by such non-federal party to testify as to facts.

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(b) Whenever, in any legal proceeding in which the United States is a party, the attorney in charge of presenting the case for the United States requests it, the Secretary shall arrange for an employee of the Department to testify as a witness for the United States.

§ 15.83 Legal proceedings among private litigants; general rule.

In any legal proceeding exclusively among private litigants, no employee of the Department may testify as an expert or opinion witness as to any matter related to his or her duties or the functions of the Department, including the meaning of Departmental documents.

§ 15.84 Legal proceedings among private litigants; subpoenas.

Whenever, in a legal proceeding exclusively among private litigants, an employee of the Department is served with a subpoena or is requested to testify, the procedures set forth in §§ 15.72–15.74 shall be applicable.

§ 15.85 Legal proceedings among private litigants; expert or opinion testimony.

If, while testifying in a legal proceeding exclusively among private litigants, an employee of the Department is asked for expert or opinion testimony, the employee shall decline to answer on the grounds that he or she is forbidden to do so by this part.

Subpart J—Processing Request for Declassification and Release of Classified Material

§ 15.91 Authority for release or denial of classified material.

(a) All requests by the public, Government employees, or other Government agencies, for the release of classified information shall be directed to the Inspector General, who will ensure that:

(1) All requests are acknowledged within 10 working days.

(2) The request is immediately coordinated with the original classification authority to determine whether the association of that authority with the classification of the information requires protection.

(3) In those instances when the answer to paragraph (a)(2) of this section is *no*, requests will be referred, along with the requested document and if appropriate any recommendations to withhold, for direct handling by the original classification authority. The requester shall be advised in writing of this action.

(4) Whenever it is necessary, by either the original classification authority or HUD to deny the declassification and release, in whole or part, of the requested information, the requester shall be notified, in accordance with Executive Order 12356, of:

- (i) The reason for the denial,
- (ii) The requesters' right to appeal the denial, and
- (iii) The name, title, and address of the appellate authority.

[44 FR 54478, Sept. 20, 1979, as amended at 48 FR 15895, Apr. 13, 1983. Redesignated at 52 FR 12161, Apr. 15, 1987]

PART 16—IMPLEMENTATION OF THE PRIVACY ACT OF 1974

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AUTHORITY: 5 U.S.C. 552(a); 42 U.S.C. 3535(d).

SOURCE: 40 FR 39729, Aug. 28, 1975, unless otherwise noted.

§ 16.1 Purpose and statement of policy.

(a) The purpose of this part is to establish policies and procedures for implementing the Privacy Act of 1974 (Pub. L. 93-579), 5 U.S.C. 552(a). The main objectives are to facilitate full

exercise of rights conferred on individuals under the Act and to insure the protection of privacy as to individuals about whom the Department maintains records in systems of records under the Act. The Department accepts the responsibility to act promptly and in accordance with the Act upon receipt of any inquiry, request or appeal from a citizen of the United States or an alien lawfully admitted for permanent residence into the United States, regardless of the age of the individual.

(b) Further, the Department accepts the obligations to maintain only such information on individuals as is relevant and necessary to the performance of its lawful functions, to maintain that information with such accuracy, relevancy, timeliness and completeness as is reasonably necessary to assure fairness in determinations made by the Department about the individual, to obtain information from the individual to the extent practicable, and to take every reasonable step to protect that information from unwarranted disclosure. The Department will maintain no record describing how an individual exercises rights guaranteed by the First Amendment unless expressly authorized by statute or by the individual about whom the record is maintained or unless pertinent to and within the scope of an authorized law enforcement activity.

(c) This part applies to all organizational components in the Department in order to assure the maximum amount of uniformity and consistency within the Department in its implementation of the Act.

(d) The Assistant Secretary for Administration shall be responsible for carrying out the requirements of this part, for issuing such orders and directives internal to the Department as are necessary for full compliance with the Act, and for effecting publication of all required notices concerning systems of records.

(e) Requests involving information pertaining to an individual which is in a record or file but not within the scope of a System of Records Notice published in the FEDERAL REGISTER are outside the scope of this part. Requests